



San Diego City Attorney MICHAEL J. AGUIRRE

NEWS RELEASE

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FINANCIAL BURDEN TAKEN OFF OF THE CITY; HIGHER COURT ORDERS CITY'S INSURANCE COMPANY TO PAY CITY'S ATTORNEY FEES IN DE LA FUENTE MULTI-MILLION DOLLAR LAWSUIT

San Diego, CA: A recent ruling by the Ninth Circuit Court of Appeals has ordered the City's insurance company, American International Group (AIG) to pay the City of San Diego's attorney's fees in the multi-million dollar case that was filed by developer Roque De La Fuente, owner of Border Business Park. It takes the financial burden of De La Fuente's multiple lawsuits off of the City.

"This decision is a giant step forward for the City. It will enable us to resolve the Border Business Park cases by providing insurance funding for a vigorous defense and any settlement, said City Attorney Michael Aguirre. The remainder of the insurance litigation is stayed and the insurance company has no ability to appeal this decision to a higher court."

According to outside legal counsel Kristine Wilkes from the law firm of Latham & Watkins, who argued the case for the City, the court's decision has three consequences: 1) the City is entitled to be reimbursed from its insurance company (AIG) for all of its costs for outside counsel in defending the De La Fuente lawsuit and related lawsuits, which will save the City well over \$4 million to date; 2) AIG will be forced to fund all or part of any settlement of the case; and 3) if the case is not settled and any portion of the damages are upheld on appeal,

AIG will likely have to pay those damages. Basically, this decision makes the De La Fuente lawsuit the problem of the city's insurer, rather than the City.

"In addition, this decision positions the City to recover its attorney's fees and punitive damages from AIG," said Kristine Wilkes. The original verdict against the City in January 2001 was for \$94.5 million in damages. That verdict was reduced after trial by nearly \$30 million, and the judgment now stands at \$91.7 million with interest. That judgment has been appealed and the cases currently are stayed in the trial and appeals court, while a court-ordered settlement process continues.

"The taxpayers should applaud Mr. Aguirre's determination to aggressively pursue insurance coverage for these cases, saving the taxpayers tens of millions of dollars," according to outside legal counsel Kristine Wilkes.

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